

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

**The United States of America,
Ex Rel. Alfred J. Longhi, Jr.,**

Plaintiffs,

V.

Civil Action H-02-4329

Lithium Power Technologies, Mohammed Zafar A. Munshi,

Defendants.

Order

Pending before the Court is Defendants' Motion for Leave to Amend (Dkt. #35), Defendants' Motion for Summary Judgment with Respect to Relator's Claims (Dkt. #37), and Relator's Motion to Strike Defendants' Proposed Amended Answer (Dkt. #39). In their motion for leave, Defendants seek to file an amended answer and a counterclaim against Relator. The deadline for filing amended pleadings in this case is June 30, 2006. *See* Dkt. #34. Although Relator asserts the proposed amendment would be futile, the Court is not inclined to deny leave at this time. Accordingly, Defendants' Motion for Leave is GRANTED and Relator's Motion to Strike Defendants' Proposed Amended Answer is DENIED.

The Court notes the defense at issue in Defendants' Motion for Summary Judgment is only now properly before the Court after leave was granted. Because of this procedural posture and certain representations made in Relator's response, the Court concludes that Defendants' motion is premature at this time. Therefore, Defendants' Motion for Summary Judgment with Respect to Relator's Claims is DENIED without prejudice to Defendants to re-urge the motion after discovery has been completed.

Signed at Houston, Texas on May 24, 2006.

Gray H. Miller
United States District Judge